

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BECKY WILBERT,

Plaintiff,

v.

Case No. 1:25-cv-90

Hon. Robert J. Jonker

JOSIAH McMAINS, et al.,

Defendants.

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ORDER

As part of the Rule 16 on July 1, 2025, the Court considered and decided Defendants' 12(b)(6) motion to dismiss for failure to state a claim (ECF No. 11). For the reasons recited from the bench, the motion is **DENIED** as to Counts I and II (the only federal claims), and **dismissed as moot** as to Counts III and IV (the state law claims). The Court also declines to exercise supplemental jurisdiction over Plaintiff's two state law claims (Counts III and IV). Moreover, the Complaint in its current form does not adequately plead a Fourteenth Amendment claim. If Plaintiff wishes to plead a Fourteenth Amendment claim provisionally, alternatively, or otherwise, she must do so by amendment.

ACCORDINGLY, IT IS ORDERED that Counts III and IV of the Complaint (ECF No. 1) are **DISMISSED WITHOUT PREJUDICE**. The case will proceed on the federal Fourth Amendment excessive force and municipal liability claims only (Counts I and II).

Dated: July 2, 2025

/s/ Robert J. Jonker
ROBERT J. JONKER
UNITED STATES DISTRICT JUDGE